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June 9, 2003

BY FACSIMILE AND FIRST CLASS MAIL

Jane A. Axelrad
Director, Office of Regulatory Policy, HFD-005
Food and Drug Administration
Woodmont Office Complex II
1451 Rockville Pike
Rockville, Maryland 20852

Re: IND 62,720 (Synthroid®)

Dear Ms. Axelrad:

We are writing in response to your letter to Douglas Sporn dated May 15, 2003, inviting Abbott Laboratories ("Abbott") to submit a citizen petition on the issue of bioequivalence standards for oral levothyroxine sodium drug products. As explained in your letter, this is an issue of significant public interest; it should be decided only after all interested persons have had an opportunity to comment and participate in the decision making process. The citizen petition process will also "establish an administrative record on which the Agency may base any future decisions" relating to bioequivalence standards for oral levothyroxine products.

Abbott has been engaged with the agency regarding this issue since late 2001 and, in February of this year, initiated "formal dispute resolution" with FDA in an attempt to resolve the bioequivalence issue. *See* Letters dated Jan. 14, 2003 (from Dr. David Orloff, FDA/CDER) and Mar. 7, 2003 (from Dr. Robert Meyer, FDA/CDER), inviting Abbott to appeal the agency's levothyroxine bioequivalence methodology under the guidance titled *Formal Dispute Resolution: Appeals Above the Division Level* (Feb. 2000) (the "FDR Guidance"). We understand that the agency now wants the benefit of a public process before reaching any further decisions regarding the bioequivalence of generic levothyroxine products. Abbott is prepared to submit a citizen petition, at the agency's request, along the following lines.

Abbott was constrained to restrict the substance of its February 12, 2003, and April 14, 2003, requests for formal dispute resolution to the administrative record as it stood on January 14, 2003 – the date of FDA's original decision in this matter. *See* FDR Guidance at 3. Since that date, several events have taken place that bear directly on the bioequivalence issue, including a meeting of the Advisory Committee for Pharmaceutical Science on March 13, 2003. As part of the process you suggest, Abbott will be incorporating into its citizen petition issues raised during that meeting. Abbott also intends to address FDA's concern regarding the sensitivity of the assay used in Study M02-417, first raised in Dr. Meyer's March 7 letter. And, we expect the opportunity to review and incorporate into our petition the summary documents for the June 2002 approval of a generic levothyroxine product, based on assurances from the agency that these documents will be made publicly available within the next several weeks. For these reasons, we anticipate that it will take between 60 and 75 days to submit a petition.

We agree with you that interested persons – from industry and the clinical community – should be given the opportunity to comment and participate in the development of FDA's levothyroxine bioequivalence methodology. Abbott anticipates taking a reasonable time to respond to comments on its petition, as recognized in your May 15 letter. If it appears that there will be multiple comments filed on the petition, please advise us and Abbott will consult with the agency on a process for responding to the comments in an efficient and timely manner. Again, this will ensure that prior to reaching a decision regarding bioequivalence methods for levothyroxine products, and prior to acting on that decision, the agency will have the benefit of a thorough administrative record.

As with our request for dispute resolution, we expect that some of the arguments in support of our petition will be based on confidential commercial or trade secret information. We understand that the agency will permit us to submit confidential information in support of our petition.

Finally, by agreeing to submit a citizen petition, Abbott is not in any way withdrawing the substantive arguments filed in support of our formal dispute resolution request. All of our arguments raised to date with FDA remain pending before the agency and remain as part of FDA's administrative file and record regarding the bioequivalence of levothyroxine products. *See* 21 CFR 10.3. We do not, however, expect to receive a separate substantive response to our request for

dispute resolution; the agency's final response to our forthcoming citizen petition will suffice.

As always, we thank the agency for its attention to this matter.

Sincerely,

David M. Fox

cc: Dan Troy
Kim Dettelbach
Kevin Fain
Office of the Chief Counsel, GCF-1

Kim Colangelo
CDER Formal Dispute Resolution Project Manager, HFD-002